

cupants of said land whatever right, title or interest there may be in the State of Texas to escheat said land by reason of the fact that the heirs of the original grantees inherited the said land at a time that Texas was a republic and while they, the said heirs, were aliens to the said Republic of Texas, without thereafter complying with the provisions of the Constitution of the Republic of Texas for such cases made and provided."

Have had the same under consideration and beg leave to report it back to the Senate with the recommendation that it do pass.

MURRAY, Chairman.

Committee Room,

Austin, Texas, January 31, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Public Lands and Land Office, to whom was referred

Senate bill No. 118, a bill to be entitled "An Act to authorize the Commissioner of the General Land Office, with the consent and approval of the Governor and Attorney General, to sell the Guayule, Lechuguilla, Sotal and other vegetation on school land, and enter into contracts for the purpose of determining the commercial value of those and all other substances found upon public free school land."

Have had the same under consideration and beg leave to report back to the Senate that it do pass with the following amendment:

Amend by inserting the words "or found" between the words "growing" and "upon" in line 4.

MURRAY, Chairman.

Committee Room,

Austin, Texas, January 31, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Engrossed Bills have carefully examined and compared

Senate bill No. 90, A bill to be entitled "An Act to amend Chapter 80 of an act passed by the Twenty-sixth Legislature at its regular session in 1889, and amended by an act passed by the Twenty-eighth Legislature at its regular session, entitled 'An Act to create a more efficient road system for Wharton county and Lavaca county in the State of Texas, and making county commissioners of said counties ex-officio road commissioners and prescribing their duties as such, and providing for their compensation, defining their powers and duties as such and providing for the appoint-

ment of road overseers and defining their duties, and for working of county convicts on the public roads of such counties, and providing for the payment of officers' fees and rewards and penalties for said convicts, and to provide for summoning of teams for road work, and allowance for time of road service for same, and fixing penalties for violation of this act,' so as to exempt Lavaca county from the provisions of said act, and declaring an emergency."

And find the same correctly engrossed.

CUNNINGHAM, Chairman.

Committee Room,

Austin, Texas, January 31, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Engrossed Bills have carefully examined and compared

Senate bill No. 94, A bill to be entitled "An Act to amend Article 325 of Title 5, Chapter 4, of the Code of Criminal Procedure of the State of Texas, pertaining to the taking of bail in felony cases when the court is in session, and authorizing the sheriff or other peace officer having in custody the accused to take a bail bond, and repealing all laws in conflict herewith, and declaring an emergency."

And find the same correctly engrossed.

CUNNINGHAM, Chairman.

TWENTIETH DAY.

Senate Chamber,

Austin, Texas,

Monday, February 4, 1907.

Senate met pursuant to adjournment.

Lieutenant Governor A. B. Davidson in the chair.

Roll call, quorum present, the following answering their names:

Alexander.	Mayfield.
Barrett.	Meachum.
Brachfield.	Murray.
Chambers.	Paulus.
Cunningham.	Senter.
Glasscock.	Skinner.
Green.	Smith.
Greer.	Stokes.
Grinnan.	Stone.
Harbison.	Terrell.
Holsey.	Veale.
Kellie.	Watson.
Looney.	Willacy.
Masterson.	

Absent.

Faust.	Harper.
Griggs.	Hudspeth.

Prayer by Rev. H. M. Sears, Chaplain of the Senate.

Pending the reading of the Journal of Friday, on motion of Senator Stone the same was dispensed with.

(See Appendix for committee reports, petitions and memorials.)

BILLS AND RESOLUTIONS.

By Senator Veale:

Senate bill No. 137, A bill to be entitled "An Act to amend Article 5043, Chapter 6, Title CII, Revised Statutes of the State of Texas, so as to place Swisher county under the operation of the Stock Inspection Law, as found in Articles 5002 to 5043, inclusive, as amended by the Twenty-sixth Legislature, Chapter 119, and declaring an emergency."

Read first time, and referred to Committee on Stock and Stock Raising.

By Senator Greer:

Senate bill No. 138, A bill to be entitled "An Act to amend Article 1278 of Chapter 10, Title XXX, Revised Civil Statutes of the State of Texas, relating to continuances, and regulating continuances in civil cases."

Read first time, and referred to Judiciary Committee No. 1.

By Senator Veale:

Senate bill No. 139, A bill to be entitled "An Act to authorize, enable and permit the territory situated within the bounds of the town of Tulia, in the county of Swisher and State of Texas, and other land and territory adjacent thereto, to incorporate as an independent school district for free school purposes only, to be known as the Tulia Independent School District, with all the powers, rights and duties of independent school districts formed by incorporation of towns and villages for free school purposes only."

Read first time and referred to Committee on Education.

Morning call concluded.

SENATE BILL NO. 58—RECOMMITTED.

On motion of Senator Terrell the pending order of business (Senate bill No. 13) was suspended, and the Senate took up, out of its order, Senate bill No. 58.

The Chair laid before the Senate, on second reading,

Senate bill No. 58, A bill to be entitled "An Act to amend Article 21 of Title IV of the Revised Civil Statutes

of Texas, and to create the Sixth Supreme Judicial District of Texas, and provide for the organization of a Court of Civil Appeals within and for the Sixth Supreme Judicial District of Texas."

On motion of Senator Terrell the bill was recommitted to the Committee on Judicial Districts.

SENATE BILL NO. 49.

On motion of Senator Veale the special order of business (Senate bill No. 13) was suspended, and the Senate took up, out of its order, Senate bill No. 49.

Senator Veale moved that the Senate rule requiring committee reports to lie over for one day be suspended for the purpose of taking up this bill, the bill having been reported from the committee today. (See committee report in Appendix.)

The motion was adopted.

On motion of Senator Veale, the committee report, which recommended that the bill be not printed, was adopted.

The Chair laid before the Senate, on second reading,

Senate bill No. 49, A bill to be entitled "An Act to amend Sections 1 and 2, Chapter 71, of the Acts of the Twenty-eighth Legislature of the State of Texas, being an act to amend Section 1 of Chapter 24 of the Acts of the Twenty-seventh Legislature of the State of Texas."

Bill read second time and ordered engrossed.

On motion of Senator Veale the constitutional rule requiring bills to be read on three several days was suspended and the bill put on its third reading and final passage by the following vote:

Yeas—26.

Alexander.	Masterson.
Barrett.	Mayfield.
Brachfield.	Meachum.
Chambers.	Murray.
Cunningham.	Paulus.
Glasscock.	Senter.
Green.	Skinner.
Greer.	Smith.
Grinnan.	Stone.
Harbison.	Terrell.
Holsey.	Veale.
Kellie.	Watson.
Looney.	Willacy.

Absent.

Faust.	Hudspeth.
Griggs.	Stokes.
Harper.	

The bill was read the third time and passed by the following vote:

Yeas—26.

Alexander.	Masterson.
Barrett.	Mayfield.
Brachfield.	Meachum.
Chambers.	Murray.
Cunningham.	Paulus.
Glasscock.	Senter.
Green.	Skinner.
Greer.	Smith.
Grinnan.	Stone.
Harbison.	Terrell.
Holsey.	Veale.
Kellie.	Watson.
Looney.	Willacy.

Absent.

Faust.	Hudspeth.
Griggs.	Stokes.
Harper.	

Senator Veale moved to reconsider the vote by which the bill was passed, and lay that motion on the table.

The motion to table prevailed.

FIRST HOUSE MESSAGE.

Hall of the House of Representatives.
Austin, Texas, February 4, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills:

House bill No. 14, A bill to be entitled "An Act to authorize the city council of all cities and towns incorporated under the General Laws of this State to regulate the charges and fix the rates to be charged by all water companies, or persons engaged in supplying water, gas and light to the public within the limits of said cities and towns, and occupying the streets and other public places for that purpose, and to prescribe reasonable rules and regulations therefor, and to protect said companies and corporations or persons from imposition," with engrossed rider.

House bill No. 16, A bill to be entitled "An Act to amend Title I of the Revised Civil Statutes of Texas, 1895, relating to the adoption of children, by adding thereto Article 2a, providing for the transfer by the natural to the adoptive parents, of the custody and parental authority over an adopted child."

House bill No. 50, A bill to be entitled "An Act to amend Article 228 of the Penal Code of the State of Texas so as to make it unlawful for any person to aid in the escape of a prisoner who has been convicted of a felony."

House bill No. 40, A bill to be entitled "An Act incorporating the Baird Independent School District in Callahan county, Texas, for free school purposes only."

House bill No. 104, A bill to be entitled "An Act to amend Article 899 of the Penal Code of the State of Texas, 1895, so as to require the butchers of Goliad county to give bond as required by law," with engrossed rider.

House bill No. 151, A bill to be entitled "An Act to amend Section 2 of an act approved May 11, 1905, creating the Jacksonville Independent School District in Cherokee county, Texas, defining its boundaries, etc., which is Chapter 3 of the General Laws passed at the First Called Session of the Twenty-ninth Legislature, so as to more particularly and accurately define its boundaries, and declaring an emergency."

House bill No. 126, A bill to be entitled "An Act requiring commissioners courts to purchase from the lowest and best bidder all the blank books and stationery supplies required by the several counties, and prescribing the manner of contracting therefor," with engrossed rider.

House Concurrent Resolution No. 7, Requesting Congress to enact such laws as will enable the Federal government to enter into trade arrangements with such foreign nations as will afford the best possible markets for live stock and its products and farm products of this country, and expressing entire confidence in the President of the United States relative thereto.

House Joint Resolution No. 7, Amending Section 3, Article 7, of the Constitution of the State of Texas, increasing the amount of tax that may be voted on school districts and providing for a majority vote of the property tax paying voters of such district to vote such tax," with engrossed rider.

Respectfully,

BOB BARKER.

Chief Clerk, House of Representatives.

BILLS READ AND REFERRED.

The Chair (Lieutenant Governor Davidson) had read and referred, after their captions had been read, the following House bills:

House bill No. 126, referred to Judiciary Committee No. 1.

House bill No. 40, referred to Committee on Educational Affairs.

House bill No. 104, referred to Judiciary Committee No. 2.

House bill No. 151, referred to Committee on Educational Affairs.

House bill No. 50, referred to Judiciary Committee No. 2.

House bill No. 16, referred to Judiciary Committee No. 1.

House bill No. 14, referred to Committee on Towns and City Corporations.

House Concurrent Resolution, referred to Committee on State Affairs.

House Joint Resolution No. 7, referred to Committee on Constitutional Amendments.

(See caption above.)

SENATE BILL NO. 13.

The Chair here laid before the Senate on second reading

Senate bill No. 13, A bill to be entitled "An Act regulating the granting of divorce by annulling marriage, dissolving the bonds of matrimony, the practice in relation to the trial of divorce suits; prescribing penalties for the violation thereof, and with an emergency clause."

The following amendment by Senator Terrell was pending:

Amend Section 1 by striking out all of said section, beginning with the first word "in" in line 13.

Here Senator Skinner made a statement that the members of the investigating committee on part of the Senate had been called upon to attend a meeting of that committee, and asked that said members be excused for that purpose.

Senator Smith moved to table the amendment, which motion was adopted.

Senator Senter offered the following amendment:

Amend by striking out Sections 2, 3, 6, 7 and 8 of the bill, renumbering the other sections accordingly, and adding a section to be numbered 3, as follows:

"Section 3. Whenever a divorce shall be granted, the judgment shall provide that the party against whom it is rendered shall not remarry within the period of one year from the time the judgment shall become final, and any person who shall, within said period, marry within this State, or who shall marry without the State, and at any time thereafter shall come within this State, shall be punished with imprisonment in the State penitentiary for a period of not less than one year and not more than three years, and in the event such person shall marry without the State the statute of limitation shall not begin to run against prosecution therefor until such person shall thereafter take up a permanent residence within this State."

Pending discussion on the above amendment, Senator Smith made the point of order that the Senate had on a former day adopted a motion to consider this bill by sections and that the

above amendment was out of order at this time.

The Chair sustained the point of order.

Senator Meachum then offered the following amendment to Section 1 of the bill, which was adopted:

Amend Section 1, after the word "public," in line 13, by adding the following: "Provided, however, the judge presiding at such trial, if no jury be demanded by either side, may, in discretion, hear such trial and proceeding at such time as may not give undue prominence thereto."

Senator Holsey offered the following amendment to Section 1 of the bill:

Amend Section 1, in line 18, by adding the following: "Provided, the attorney's fee referred to in this section shall not exceed \$5."

On motion of Senator Smith, the amendment was tabled.

Here Senator Smith moved that the Senate rescind the motion on a previous day to consider the bill by sections.

The motion was adopted.

The Chair then stated amendments were in order for any part of the bill.

Senator Veale offered the following amendment, which was adopted:

Amend by adding after the word "years" in line 20, page 3, the following: "Provided, Sections 2, 3, 4, 5, 6, 7 and 8 of this act shall not apply where the plaintiff relies wholly on the ground of three years' abandonment."

VEALE,
CUNNINGHAM.

Senator Alexander offered the following amendment, which was adopted:

Amend Section 3 of Senate bill No. 13 by adding after the word "access" in line 7, page 2, the words "provided, that the statement of facts shall be kept by the clerk of the court for one year, or until the decree of the court has been made absolute and all appeals finally determined, when it shall be the duty of the clerk to destroy said statement of facts."

ALEXANDER,
GREEN.

Senator Glasscock offered the following amendment, which amendment was adopted:

Amend Section 2, page 1, by striking out all of said section after the word "motion," in line 26, down to the word "and," in line 27.

Senator Masterson moved that further consideration of the bill be postponed till tomorrow morning, and be made pending business; and that all Senators who desired to offer amendments be al-

lowed to have them printed in the Journal.

The motion was adopted, and the following amendments were furnished the Journal Clerk:

By Senator Glasscock:

Amend the bill by striking out sections 4, 5 and 6 of the printed bill.

By Senator Murray:

Amend the bill, Section 1, lines 13 and 14, by striking out the words, "and in any other case."

By Senator Terrell:

Amend the bill by adding to Section 3, as amended, the following: "Provided, the clerk shall not allow an inspection of such statement of facts to any one except the parties to the suit and their attorneys, unless such person shall present to such clerk an order of the judge of said court authorizing said clerk to allow such person to inspect such statement of facts."

By Senator Greer:

Amend Section 2 by striking out the words "one year" where they appear in lines 23 and 28, and inserting in lieu thereof the words "six months."

EXECUTIVE MESSAGE.

Executive Office,

Austin, Texas, February 4, 1907.

To the Senate:

I ask the advice and consent of the Senate to the appointment of J. K. P. Gillaspie of Harris county to be judge of the Criminal District Court for the district composed of Galveston and Harris counties.

T. M. CAMPBELL,

Governor.

EXECUTIVE SESSION — TIME SET FOR.

On motion of Senator Willacy, tomorrow at 11 o'clock was the time designated for the Senate to sit in executive session to consider the above appointment by the Governor.

SENATE BILL NO. 61.

Senator Meachum called up Senate bill No. 61, which was on the President's table, subject to call.

The Chair laid before the Senate, on second reading,

Senate bill No. 61, A bill to be entitled "An Act to amend Sections 93 and 94 of Chapter 124 of the Acts of the regular session of the Twenty-ninth Legislature, relating to school trustees and their duties."

Senator Meachum offered the following amendment:

Amend the bill by striking out all after the word "follows," in Section 1, line 13, of the printed bill, and adding in lieu thereof the following:

"Sec. 93. White and colored children shall not be taught in the same schools, but impartial provisions shall be made for both races. Three trustees shall in all cases be elected for the control and management of the schools of the district; provided, the trustees elected must be able to read and write intelligently the English language, and read, comprehend and interpret the provisions of the Constitution of the State of Texas and the laws of the State of Texas relating to the public school system; and in the event a trustee elected, in the opinion of the county superintendent or the county judge, who is ex-officio county superintendent, is not qualified to serve under the provisions of this act, it shall be the duty of the county superintendent, or such county judge, who is ex-officio county superintendent, to refuse to recognize such person who has been so elected as such school trustee, and to make written request, within twenty days after such election of the Attorney General of this State to bring suit against such person so elected trustee to remove him from the office to which he has been so elected, and upon such request of such county superintendent or county judge, who is ex-officio superintendent, it shall be the duty of the Attorney General to institute and prosecute with dispatch such suit, in the name of the State of Texas, for the removal of such trustee in the district court of Travis county, Texas, or in the district court of the county where such trustee resides, at the option of the Attorney General; provided, it shall be lawful under the provisions of this act, upon good cause shown within the discretion of the court where such suit is pending, to enjoin and restrain such person from acting as such trustee during the pendency of such suit for his removal. And provided further, that if such county superintendent or county judge, who is ex-officio county superintendent, shall fail and refuse to request such suit for the removal of such trustee within twenty days after his election as such trustee, any reputable citizen of the county wherein such trustee resides and in which he has been elected who believes such trustee disqualified from acting under the provisions of this act, may make such request of the Attorney General to bring such action, and it shall be the duty of the Attorney General to so investigate as to the qualifications of such trustee so elected, and if in the Attorney Gener-

al's opinion he is not qualified as herein required, it shall be the duty of the Attorney General to so act the same as if requested by such county superintendent or county judge, who is ex-officio county superintendent. It shall be lawful under the provisions of this act to summon such trustee so elected before the court in the trial of such cause and there make examination of him as to his qualifications to serve as such trustee as defined by this act, and in case such trustee, after having been duly cited to answer in said cause and summoned as hereinabove provided to appear for examination, shall fail, neglect or refuse to obey said summon, and fail to appear for the purpose of examination, and fail or refuse to submit to such examination, such failure, neglect or refusal shall be prima facie evidence of his disqualification under the terms of this act, and because thereof the court trying such cause shall be authorized to render thereupon judgment by default against such trustee so defaulting, removing him from his said office of school trustee and declaring the same vacant. It shall be the duty of the commissioners court of the county where such trustee has been elected to appoint some suitable person who is qualified as herein defined to act as such trustee during the pendency of such suit to remove such trustee so elected, if he shall be enjoined from so acting, and in case such trustee so elected shall be so removed by such suit brought by the Attorney General, then such trustee so appointed by the commissioners court of said county shall continue to serve until the next regular election of school trustees for such district. In case of vacancy in said office of trustee, by resignation or otherwise, the commissioners court of the county shall appoint a suitable person qualified under the provisions of this act to so act as such trustee until the next regular election of school trustees for such district; and in case such commissioners court under the provisions hereof should appoint some person not qualified, suit for his removal shall be brought by the Attorney General of the State, in the name of the State of Texas, in the manner and upon the same terms and conditions as has been herein provided for in case of the election of persons who are not qualified to act as such trustees.

The returns of the election of the trustees to be elected, as hereinbefore provided, for the control and management of the schools of the district, shall be made to the county clerk of the county where such election is held, who shall

deliver the same to the commissioners court to be canvassed, and the result declared as in cases of other elections, which commissioners court shall issue to the persons so elected their commissions as such trustees.

"Sec. 94. The county superintendent, or county judge, who is ex-officio county superintendent, upon the receipt of the certificate issued by the Board of Education for the State fund belonging to his county, shall apportion the same to the several school districts (not including the independent school districts of the county), making a pro rata distribution as per the scholastic census, and shall at the same time apportion the income arising from the county school fund to all the school districts, including the independent school districts of the county, making a pro rata distribution as per scholastic census.

"Within thirty days after such apportionment is made by the county superintendent of education or county judge, who is ex-officio county superintendent of education, the trustees of each district shall, if possible, agree upon a division of the funds of the district among the schools thereof, and shall fix the term for which the schools of the district shall be maintained for the year. Should they agree upon a division of the funds of the district or upon the length of the term for which the schools of the district shall be maintained, they shall at once certify their agreement to the county superintendent or county judge, who is ex-officio county superintendent, who shall not approve any contract with teachers of the district until such agreement is received. Should the trustees fail to agree upon a division of the funds of the district or upon the length of the term for which the schools of the district shall be maintained, they shall at once certify their disagreement to the county superintendent or the county judge, who is ex-officio county superintendent, who shall proceed to fix the school term of such school district and declare the division of the school fund of the district among the schools thereof, endeavoring as far as practicable, to provide for the schools of such district school terms of the same length."

Pending.

Senator Alexander moved that the bill and pending amendment be postponed, and be made a special order for 11:15 o'clock tomorrow.

The motion was adopted.

ADJOURNMENT.

On motion of Senator Terrell, the Senate, at 12:30 o'clock, adjourned till tomorrow morning at 10 o'clock.

APPENDIX.

COMMITTEE REPORTS.

(Floor Report.)

Committee Room,
Austin, Texas, February 2, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Constitutional Amendments, to whom was referred Senate Joint Resolution No. 4, proposing an amendment to Section 20 of Article 16 of the Constitution of the State of Texas, relating to local option laws, have had the same under consideration, and we are instructed to report same back to the Senate with the recommendation that it do pass.

LOONEY, Acting Chairman.

(Floor Report.)

Committee Room,
Austin, Texas, February 4, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Judiciary Committee No. 1, to whom was referred

Senate bill No. 49, A bill to be entitled "An Act to amend Sections 1 and 2 of Chapter 71, Acts of the Twenty-eighth Legislature, and to amend Sections 1 and 2, Chapter 23, Acts of the Twenty-ninth Legislature,"

Have had the same under consideration, and we are instructed to report same back to the Senate, with the recommendation that it do pass, and that the bill be not printed.

VEALE, Chairman.

(Floor Report.)

Committee Room,
Austin, Texas, February 4, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Roads, Bridges and Ferries, to whom was referred

House bill No. 26, A bill to be entitled "An Act creating a more efficient road system for Wood county, Texas,"

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

GREEN, Chairman.

Committee Room,

Austin, Texas, February 4, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Internal Improvements, to whom was referred for further consideration and report, Senate bill No. 33, beg to report that after due consideration of the merits of said Senate bill No. 33, your committee have agreed to report a substitute for said bill, entitled:

An Act to confer the power of eminent domain upon interurban electric railway companies, to regulate the exercise thereof, to permit such companies to construct their railways along and across highways, steam railways, roads, canals, streets, streams, bays, navigable waters and arms of the sea, and to condemn easements and rights of way upon the track or tracks of any electric street railway companies in this State, and to regulate the manner thereof, providing for the making this law cumulative of the General Laws of the State of Texas, and to confer upon interurban electric railway companies the authority to produce, supply and sell electric light and power to the public and to municipalities, and providing an emergency, and I am instructed to report said substitute to the Senate with the recommendation that it do pass.

BRACHFIELD, Chairman.

Following is the substitute bill:

C. S. S. B. No. 33. By Committee.

A BILL

To Be Entitled

An Act to confer the power of eminent domain upon interurban electric railway companies, to regulate the exercise thereof, to permit such companies to construct their railways along and across highways, steam railways, roads, canals, streets, streams, bays, navigable waters and arms of the sea, and to condemn easements and rights of way upon the track or tracks of any electric street railway companies in this State, and to regulate the manner thereof, providing for the making this law cumulative of the General Laws of the State of Texas, and to confer upon interurban electric railway companies the authority to produce, supply and sell electric light and power to the public and to municipalities, and providing an emergency. Be it enacted by the Legislature of the State of Texas:

Section 1. That all corporations, chartered for the purpose of construct-

ing, acquiring, maintaining and operating lines of electric railway between any cities and towns in the State of Texas for the transportation of freight or passengers, or both, shall have the right of eminent domain, as fully to all intents and purposes as is now conferred by law upon steam railroad corporations, and shall have the right and power to enter upon, condemn and appropriate the lands, rights of way, easements and property of any person or corporation whomsoever for the purpose of acquiring rights of way upon which to construct and operate their lines of railways and sites for depot and power plants; provided, that no cemetery grounds, nor any part thereof, shall be so taken or condemned.

Sec. 2. Such corporations shall have the right and power to lay out rights of way for their railways not to exceed two hundred (200) feet in width, and to construct their railways and appurtenances thereon; and for the purpose of cuttings and embankments to take as much more land as may be necessary for the proper construction and security of their said railways, and to cut down any standing trees, or remove any other structure that may be in danger of falling upon or obstructing such railway, compensation being made therefor in accordance with law. And to the accomplishment of these ends such corporation shall have the right to cause such examination and survey of their proposed railways to be made as may be necessary to the selection of the most advantageous route, and for such purpose may enter upon the lands or waters of any person or corporation subject to responsibility for all damages that may be occasioned thereby.

Sec. 3. Such corporations shall have the right and power to construct their railways along, across and over any stream of water, water course, bay, navigable water, arms of the sea, street, highway, steam railway, plank road, turnpike or canal which the route of such railway shall touch, and shall have the right to erect and operate bridges, trams, trestles or causeways over, along or across any such stream, water course, navigable water, bay, arm of the sea, street, highway, plank road, turnpike or canal. Provided, however, that any such bridge or other structure shall be so erected as not unnecessarily or unreasonably to prevent the navigation of any such stream, water course, bay, arm of the sea or navigable water; and provided further, that nothing herein contained shall authorize the construction of any such railway upon or across any

street, alley, square or property of any incorporated city or town, without the assent of said corporation of said city or town, and that in case of the construction of an electric railway along and upon highways, plank roads, turnpikes, or canals, such interurban electric railway company shall first obtain the consent of the lawful authorities having the jurisdiction of the same.

Sec. 4. The power of eminent domain, and of condemnation of property thereunder herein given, shall be exercised upon the same conditions, in the same manner and subject to the same regulations, restrictions and penalties as is now provided by law in case of steam railway companies as set forth in Articles 4422 and 4438 inclusive, and from 4440 to 4475 inclusive, being Chapter 8 of Title XCIV, of the Revised Statutes of the State of Texas, and subsequent acts of the Legislature of the said State, amendatory of and supplemental thereto, and especially the following, to-wit: Act approved April 15, 1899, being Chapter 70 of the General Laws of the Twenty-sixth Legislature; Act approved March 7, 1901, being Chapter 17 of the Acts of the Twenty-seventh Legislature, and an Act approved April 1, 1901, being Chapter 36 of the Acts of the Twenty-seventh Legislature; it being the purpose of this act to confer upon interurban railway companies all rights and powers of eminent domain hereinabove set out and conferred upon steam railway corporations in this State, and to regulate the manner of exercise thereof, as is provided by law in the case of such steam railway companies.

Sec. 5. The right of condemnation herein given to interurban electric railway companies shall include the power and authority to condemn, for their use and benefit, easements and rights of way to operate interurban cars along and upon the track or tracks of any electric street railway company owning, controlling or operating such track or tracks upon any public street or alley in any town or city of this State for the purposes hereinafter mentioned, subject to the consent, authority and control of the city council of such town or city.

Any such interurban electric railway company seeking to avail itself of the benefits of this section of this act shall have the right to condemn an easement along and upon the track or tracks of any electric street railway company for the purposes only of securing an entrance into and an outlet from a town or city upon a route to be designated by the city council or other city au-

thorities in control of the streets and alleys of such city. And in any proceeding to condemn an easement or right of way for the purposes above mentioned the court or the jury trying the case shall define and fix the terms and conditions upon which such easement or right of way shall be used; provided, the court rendering such judgment shall be authorized upon a subsequent application or applications by either of the parties to the original proceeding or any one claiming through or under them to review and reform the terms and conditions of such grant and the provisions of such judgment and the hearing upon such application shall be in the nature of a retrial of said cause with respect to the terms and conditions upon which said easement shall be used, but the court shall not have power upon any such rehearing to declare such easement forfeited or to impair the exercise thereof. Provided, that no application for a rehearing shall be made until two years after the final judgment on the last preceding application.

An interurban electric railway company within the meaning of this act is a corporation chartered under the laws of this State for the purpose of conducting and operating an electric railway between two cities or between two incorporated towns, or between one city and one incorporated town in this State, and the rights secured under this section of this act by any interurban company shall be inoperative and void if the road to be constructed under the charter of said company is not fully constructed from a city or incorporated town to some other city or incorporated town within twelve months from the date of the final judgment awarding to said company said easements and rights of way.

Any interurban company availing itself of the privileges conferred by this section of this act is hereby prohibited from receiving for transportation at any point on that portion of track or tracks so condemned—without the consent of the company over whose track or tracks the easement is condemned—any freight or passengers destined to a point or points between the termini of the track or tracks so condemned; and a willful violation by the company of this provision of this section of this act shall operate to forfeit such easements or rights of way.

If this section of this act shall be held by the courts of this State invalid for any reason, such invalidity shall not

affect any other section or portion of this act.

Sec. 6. Such interurban electric railway companies shall also have the right and authority to produce, supply and sell electric light and power to the public and to municipalities.

Sec. 7. The provisions of this act shall be held and construed to be cumulative of all General Laws of this State on the subject of interurban electric railways when not in conflict herewith, but nothing contained in this act shall be construed or have the effect or to confer the power of eminent domain, or any of the powers herein conferred, except those conferred in Section 6, upon any interurban railroad or interurban railroad company or upon any person, firm, association, corporation or to add to the powers already possessed by any such railroad or railroad company, person, firm, association or corporation so as to enable or authorize it to condemn any land or ground occupied by any portion of its line or track already constructed at the time this act shall take effect, or to condemn any land or ground for the purpose of changing the location of any track or line constructed at the time this act shall take effect. Provided, that nothing contained in this section shall be construed to take from any interurban railroad, interurban railroad company, person, firm, association or corporation, any power of eminent domain already possessed by it.

Section 8. The great necessity for this law, there being none existing upon the subject sufficient to permit interurban electric railroad corporations to exercise the rights and powers herein conferred, creates an emergency and an imperative public necessity requiring the suspension of the constitutional rule that bills be read on three several days in each house, and the same is hereby suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

TWENTY-FIRST DAY.

Senate Chamber,
Austin, Texas,

Tuesday, February 5, 1907.

Senate met pursuant to adjournment.
Lieutenant Governor A. B. Davidson in the chair.

Roll call, quorum present, the following answering to their names:

Alexander.	Cunningham.
Barrett.	Faust.
Brachfield.	Glasscock.
Chambers.	Green.